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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 21

POMONA VALLEY HOSPITAL MEDICAL
CENTER,

Employer,

and

SERVICE EMPLOYEES INTERNATIONAL
UNION, UNITED HEALTHARE WORKERS-
WEST,

Petitioner.

No. 21-RC-166499

**PETITIONER'S BRIEF ON REVIEW
OF THE REGIONAL DIRECTOR'S
SUPPLEMENTAL DECISION AND
DIRECTION TO SUSTAIN CERTAIN
CHALLENGED BALLOTS AND TO
COUNT THE REMAINING
CHALLENGED BALLOTS**

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I. INTRODUCTION

Pursuant to Section 102.67 (h) of the Board's Rules and Regulations, Petitioner Service Employees International Union, United Healthcare Workers – West ("Petitioner" or the "Union") hereby requests that the Board reverse the Regional Director's Supplemental Decision and Direction To Sustain Certain Challenged Ballots and To Count the Remaining Challenges ("RD's Supplemental Decision"). A copy of the Supplemental Decision is attached hereto as Exhibit A.

The Board should reverse certain aspects of the RD's Supplemental Decision, because (1) the decision is based on substantial factual issues that are clearly erroneous and ignores substantial factual evidence in the record, causing prejudice to the Petitioner; (2) a substantial question of law is raised by the decision as the RD departed from published Board precedent on numerous occasions; and (3) the decision contains a material and substantive drafting errors with respect to the classification of Specialist HIM Data Integrity.

For these reasons, the Petitioner requests that the Board grant its request for review.

II. PROCEDURAL HISTORY

The Petitioner filed a petition on December 22, 2015, seeking to represent a unit of 1,065 service/non-professional and technical workers, employed by the Employer at its Pomona, California facility. A hearing took place in this matter on January 5, 2016. At the hearing, the employer sought to include 223 individuals into the voting unit. Rather than resolve the exclusion or inclusion of these individuals at the hearing, the Regional Director determined that it would be best to resolve the eligibility of these individuals, if necessary, following the election.

On January 21 and 22, 2016, the Region conducted an election for a unit of service/non-professional and technical workers. RD's Supp. Dec. at p. 1. The tally of ballots showed that there were 1,065 eligible voters with 531 ballots cast for Petitioner and 458 ballots cast for "No Union." The tally also showed that 218 voters cast a challenged ballot. The challenged ballots were sufficient in number to affect the results of the election. Because the parties were unable to agree on whether the 218 individuals were eligible to vote, the parties utilized the Board's

challenged-ballot procedure.

A hearing to resolve the 218 challenged ballots was held on February 12, 16, 17, and 18, 2016. On June 9, 2016, the Hearing Officer issued his report on the challenges. A copy of that report is attached as Exhibit B. In his report, the Hearing Officer sustained 153 challenges to the 218 challenged ballots, and recommended that 65 ballots be opened and counted.

On June 23, 2016, the Employer filed exceptions to the Hearing Officer's report, arguing that all of the 153 ballots, which the Hearing Officer sustained challenges to, should be opened and counted. The Union did not file any exceptions. Nearly nine months later, on March 17, 2017, the Regional Director issued his Supplemental Decision, sustaining the challenges to 136 ballots, but overruling the challenges to 82 ballots.¹ The parties each requested review of that Decision. The Board subsequently granted review in part.

The Union requests that the Board reverse the RD's Supplemental Decision as it relates to the following 17 individuals:

1. Kimberly Erving (101), Administrative Assistant NICU;
2. Rosa Delgado (127), Coordinator, ICU;
3. Veronica Garcia (141), Intermediate Billing Representative;
4. Lisa Horvath (142), Intermediate Billing Representative;
5. Desiree M. Lingenfelter-Chacon (151), Office Coordinator LDRP;
6. Randy R. Walker (181), Application Specialist;
7. Theresa G. Bangunan (182), Application Specialist, Perioperative;
8. Maria I. Jimenez (152), Hospitality Desk and Parking Ambassador;
9. Hortensia Machorro (153), Hospitality Desk and Parking Ambassador;
10. Tatiana K. Navarro (154), Hospitality Desk and Parking Ambassador;

¹ The RD's Supplemental Decision contains a substantive drafting error. In his decision, the RD notes that he overrules 82 challenges, which includes challenges to the ballots of the three employees, (employees 61-63), who occupy the classification of Specialists HIM Data Integrity. *See* RD Supp. Dec. at pp. 10-11. However, in a separate part of the RD's decision, the RD concludes that Specialists HIM Data Integrity classification should be excluded from the unit, and that the challenges to the ballots of employees 61-63 should be sustained, along with Medical Records Technicians. *See id.* at pp. 5-6.

11. Angelica Perez (155), Hospitality Desk and Parking Ambassador;
12. Rosemary N. Rojo (156), Hospitality Desk and Parking Ambassador;
13. Virginia M. Wilkerson (157), Hospitality Desk and Parking Ambassador;
14. Lindsey K. Medina (34), Coordinator of Volunteers, Hospitality Desk and Parking Ambassador;
15. Cleo M. Bretado (61), Specialists HIM Data Integrity;
16. Heidi A. Martinez (62), Specialists HIM Data Integrity; and
17. Adrienne B. Wilson (63), Specialists HIM Data Integrity.

III. SUMMARY OF EVIDENCE

At the hearing regarding the challenged ballots, the Employer presented witnesses as well as documentary evidence for each employee and classification. The following is summary of the evidence and arguments.

A. KIMBERLY L. ERVING, ADMINISTRATION ASSISTANT, NICU (EMPLOYEE 101).

The Employer argued that this classification should be included in the petitioned for unit; the Union argued that this classification should be excluded because it belongs in a Business Office Clerical (“BOC”) unit. Kimberly Erving did not testify at the hearing. Instead, Vice-President of Nursing and Patient Care, Darlene Scafiddi, testified about the job duties and responsibilities of Ms. Erving’s classification.

The evidence presented at the hearing established that Ms. Erving does not work in a patient care unit. Ms. Erving works on the third floor of a building known as the Women’s Center. Ms. Erving has her own office, which she does not share with any other employee. Tr. 222:1-4; 223:15-16.

According to Ms. Erving’s job description, her job duties consist of clerical duties, such as scheduling the Director’s appointments; maintaining the Director’s daily calendar; answering phone calls for the Director; maintaining personnel files and receiving subpoenas for personnel records; and maintaining the “monthly budget and ensur[ing] timely payment of department

expenses.” Er. Exh. 9. Ms. Erving also handles the payments of bills from outside vendors. Tr. 227:10-11.

Finally, Ms. Erving’s job does not require her to have any interaction with patients or patient care associates. Ms. Scaffiddi testified that Ms. Erving “could” – hypothetically – interact with a patient’s family, if she took “a concern from a family of a patient.” Tr. 230:2-4. However, Ms. Scaffiddi could not provide any specific example of Ms. Erving actually dealing with a patient’s family member. Tr. 231:7-16.

B. ROSA DELGADO, COORDINATOR, ICU (EMPLOYEE 127).

The Employer argued that this classification should be included in the petitioned for unit; the Union argued that this classification should be excluded because it belongs in a BOC unit. Rosa Delgado did not testify at the hearing. Ms. Scaffiddi testified about Ms. Delgado’s classification and her job duties.

The evidence presented at the hearing established that while Ms. Delgado share an office with a doctor and it is within the ICU, for all intents and purposes, she has her own office. *See* Tr. 259:15-18; 260:5-9. No patients are seen in her office. Tr. 260:7-8. In fact, the “doctor mostly works out of his own office[,]” which is located outside the hospital, and uses Ms. Delgado’s office if “he’s waiting for the next patient or he needs to catch up on some work.” Tr. 260:5, 11-15.

Ms. Delgado’s job description requires her to be able to “[p]erform a variety of secretarial duties” that include “creating, typing and distributing necessary documents.” Er. Exh. 44. Her job duties also include, among other things, answering phones, taking and relaying messages; retrieving files, maintaining files; photocopying and collating; maintaining records. *Id.* She also assists with payroll, and performs data entry. Tr. 159:18-20.

Finally, the evidence established that Ms. Delgado does not interact with patients, nor does her job require her to interact with patients. Tr. 159:23-24. Her interaction with other employees of the hospital is limited to her role in taking the minutes of meetings involving

nurses, physicians, pharmacists, respiratory therapists, and social workers; taking the minutes of staff meetings; and processing payroll. Tr. 159:11-22.

C. VERONICA GARCIA AND LISA HORVATH, INTERMEDIATE BILLING REPRESENTATIVE (EMPLOYEES 141-142).

The Employer argued that this classification should be included in the petitioned for unit; the Union argued that this classification should be excluded because it belongs in a BOC unit. Neither Ms. Garcia nor Ms. Horvath testified at the hearing. Rather, Ms. Scaffidi testified about their classification and job duties.

According to the job description for the Intermediate Billing Representative, this classification performs billing tasks. Er. Exh. 69. Their duties include ensuring that charges are correctly captured in the employer's data system, and taking phone calls. Tr. 172:18-173:18. They primarily perform data entry within their own cubicle, and do not have patient contact. *See* Tr. 276:3-23. Rarely, but on occasion, Ms. Garcia or Ms. Horvath may have to deliver pills and medicine to the floors, if the Pharmacy Messenger – a position that is not in the unit – is unavailable. Tr. 278:24-25; 279:1-7.

There is no evidence in the record that Ms. Garcia or Ms. Horvath interact with patients. Although both work in a cubicle in the basement of the hospital where the Pharmacy is located, there is scant evidence as to the frequency and of their interaction with eligible voters, or the quality of that interaction.

D. DESIREE M. LINGENFELTER-CHACON, OFFICE COORDINATOR, LDRP (EMPLOYEE 151).

The Employer argued that this classification should be included in the petitioned for unit; the Union argued that this classification should be excluded because it belongs in a BOC unit. Ms. Lingenfelter-Chacon did not testify at the hearing. Instead, Director of Women's Services, Dee Ann Gibbs, testified about the job duties and responsibilities of this classification.

The job description for the Office Coordinator LDRP describes the major functions of this job to include, but not limited to, "[c]ompleting authorizations and billing issues." Er. Exh.

76. As described by Ms. Gibbs, “the primary function [of this classification] . . . has to do with scheduling physicians that want to get their patient in for a C-section. And then . . . mak[ing] sure that we had the information on the patient we need, the prenatal records, you know the lab work, whatever is required.” Tr. 816:-14. Ms. Lingenfelter-Chacon also enters charges incurred by patients and transfers that information to the billing office. Tr. 817:3-14.

Ms. Lingenfelter-Chacon works on the second floor of the Women’s Center in the staff hallway, sharing an office with the Operating Room supervisor and Transport coordinator, neither of whom are eligible voters. Tr. 794:3-6; 815:2-4. Ms. Lingenfelter-Chacon’s job duties do not require her to interact with patients; however, Director Gibbs testified that she sometimes relieves patient care support techs – whose role is 80% clerical and 20% percent patient care – for their lunch breaks. Tr. 793:6-15.

E. RANDY R. WALKER, APPLICATION SPECIALIST (EMPLOYEE 181).

The Employer argued that this classification should be included in the petitioned for unit; the Union argued that this classification should be excluded because it belongs in a BOC unit or a Skilled Maintenance unit. Mr. Walker did not testify at the hearing. The Employer called Vice President Scaffiddi to testify about Mr. Walker’s job duties and his classification.

According Mr. Walker’s job description, his job duties include “support[ing], the development, implementation, monitoring, testing, and ongoing maintenance and upgrades of pharmacy related applications, clinical systems, and computerized pharmacy systems and hardware.” Er. Exh. 14. He is also responsible for repairing and replacing hardware in the computerized medication dispensing cabinet. Tr. 293:8-19; 294:1-8.

The evidence demonstrated that Mr. Walker does not interact with patients. Tr. 181:22-23. While Mr. Walker has an office in the pharmacy department, his interactions with other employees consist of interacting with the Information Technology department, (Tr. 294:9-14), and training pharmacy staff on computer systems and “troubleshoot[ing] anything related to the medication dispensing cabinets or any other software in the pharmacy.” Tr. 181:16-18. Other

than those interactions, Mr. Walker does not interact with any other employee. Tr.181:19-21.

F. THERESA G. BANGUNAN, APPLICATION SPECIALIST, PERIOPERATIVE (EMPLOYEE 182).

The Employer argued that this classification should be included in the petitioned for unit; the Union argued that this classification should be excluded because is it belongs in a BOC unit or a Skilled Maintenance unit. Ms. Bangunan did not testify at the hearing. Ms. Scaffidi testified about Ms. Bangunan's job duties and her classification.

The job description for Application Specialist, Perioperative list the major functions of the position as being required to "[r]esearch, plan, construct, install, configure, troubleshoot, maintain, and upgrade hardware and/or software interfaces, upgrade application reports, and databases for the Perioperative applications." Er. Exh. 13. The job duties also include "[r]esolving hardware, software, and connectivity problems." *Id.*

Ms. Bangunan does not interact with patients. Tr. 183:21-22. Ms. Bangunan works in one of the suites on the second floor of the hospital, where the Surgery department is located. Tr. 294:20-24. Ms. Scaffidi could not testify, with any positive assurance, as to whether Ms. Bangunan had her own office or not. Tr. 295:5-7. According to Ms. Scaffidi, Ms. Bangunan's interactions are limited to training LVNs, PCAs, and nursing aides in the Surgery department on how to use various computer systems. Tr. 183:12-14. And although her job description places emphasis on resolving hardware, software, and connectivity issues, Ms. Scaffidi "couldn't speak" to those issues, except to confirm that Ms. Bangunan replaces and installs hardware. Tr. 296:11-18.

G. MARIA I. JIMENEZ, HORTENSIA MACHORRO, TATIANA K. NAVARRO, ANGELICA PEREZ, ROSEMARY N. ROJO, VIRGINIA M. WILKERSON, HOSPITALITY DESK & PARK AMBASSADORS (EMPLOYEES 152-157).

The Employer argued that this classification should be included in the petitioned for unit; the Union argued that this classification should be excluded because is it belongs in a BOC unit. None of the employees in this classification testified. Instead, Vice President of Support

Services, Michael Vestino, testified about the job duties and responsibilities of their classification.

Hospitality Desk and Park Ambassadors guard entrances to the hospital parking lots and interiors where they answer visitor questions and issue visitor badges. As their job description notes, employees in this classification “[p]rotect[] all hospital buildings, assests and premises as assigned.” Er. Exh. 67. Employees in this classification report to the Head of Security, and their managers are located in a department that is located in a separate building away from the hospital where an employee credit union and physician billing office is also located. Tr. 525:21-25; 526:1.

Employees in this classification do not interact with patients, except when greeting them at an entrance or guard station in the parking lot. *See* Tr. 453:2-6. For the most part, the only interaction that these employees have with other unit employees is in casual passing. Tr. 450:21-23. If there is a cleaning issue in the lobby area, for example, then they may talk with an EVS associate in order to clean up a spill. *See* Tr. 450:23-25; 451:1.

H. LINDSEY K. MEDINA, COORDINATOR, VOLUNTEERS (EMPLOYEE 34).

The Employer argued that this classification should be included in the petitioned for unit; the Union argued that this classification should be excluded because is it belongs in a BOC unit. Ms. Medina did not testify. The Employer called Vice President of Administration, Leigh Cornell, to testify about Ms. Medina’s job duties and classification.

The purpose of the Coordinator, Volunteers is to recruit and supervise student volunteers, mainly high school and college students. Er. Exh. 52; Tr. 673:2-15. As part of her job, Ms. Medina spends time going to high schools and colleges speaking with students in an effort to recruit them for volunteer opportunities. Tr. 674:5-17.

Ms. Medina shares an office behind the gift shop, on the first floor of the hospital, with the Volunteer Services Director and two assistants. No other hospital workers enter this area. Tr. 657:5-659:15, 671:15-679:9.

Finally, Ms. Medina is not involved in patient care. Ms. Medina has no direct contact with patients. Tr. 677:18-20. Her indirect contact with patients is limited to those times where she escorts a volunteer to a patient floor, and a patient may be present. Tr. 677:12-17. The only contact that she has with other employees is if employees were to talk with her about a volunteer. (Tr. 677:21-25). Or, as described by Ms. Cornell, when she walks “around the hospital because she’s checking on her volunteers so it could be just casual conversation with other associates and she knows – she’s been there a long time so she knows a lot of them, that that’s her daily interaction.” Tr. 678:3-7.

I. CLEO M. BRETADO, HEIDY A. MARTINEZ, ADRIENNE B. WILSON, SPECIALIST, HIM DATA INTEGRITY (EMPLOYEES 61-63).

The Employer argued that this classification should be included in the petitioned for unit; the Union argued that this classification should be excluded because it belongs in a BOC unit. None of the employees in this classification testified. Instead, the Employer called the Director of Health Information, Larry Smith, to testify about the job duties and responsibilities of the Specialist, HIM Data Integrity classification.

The Specialist, HIM Data Integrity classification, according to the Employer’s job description, is “[r]esponsible for ongoing monitoring and repair of patient identity issues, duplicate medical records numbers and patient overlays.” Er. Exh. 86. Employees in this classification are also required to “review insurance payments and denials and recommends billing corrections.” *Id.*

As Director Smith testified, employees in this classification work closely with supervisors in the Central Billing Office, also known as the 3SPA, which is located at an off-site location. Tr. 910:12-25; 911:1-25; 912:1-4. While employees in this classification do not work directly with insurance companies with respect to a particular claim, they do communicate directly with business office personnel about such matters. Director Smith explained that they “get notification from the business office that the particular claim has been denied for this particular reason and then they would go into the chart and find out what’s the issue in the

chart.” Tr.910:12-15.

Moreover, Director Smith explained that if an insurance company is refusing to pay a claim, then the business office would communicate with employees in this classification and they would investigate why the insurance denied the claim and report their findings to personnel at the Central Business Office. *See* Tr. 911:3-12. In addition, employees in this classification would also “recommend to the business office [that] there is a problem with the name change, [that] it needs to be billed under the right patient.” Tr. 911:24-25; 912:1.

Finally, employees in this classification are not involved in patient care. They work in the basement of the hospital, and primarily deal with the Central Business Office. Tr. 909:4-6; Tr. 910:12-25; 911:1-25; 912:1-4. Director Smith testified that employees may “occasionally” interact with patients. Tr. 851:15-16. And while Director Smith testified that there was some limited interaction with other staff, like registration personnel, he conceded that he did not “know all the particular classifications.” Tr. 851:9-10. Director Smith also testified that there was some interaction with nursing staff, but his testimony lacked any specificity about the frequency or quality of such interaction. Tr. 851:1-6.

IV. ARGUMENT

A. “PATIENT-CARE DEPARTMENT CLERKS” (EMPLOYEES 101, 127, 141, 142, 151, 181 AND 182)

There is no classification entitled “Patient-Care Department Clerk” at the hospital. For some unexplainable reason, the Regional Director decided to lump together six different and diverse classifications under the heading of “Patient-Care Department Clerks.” While the fictional job title given to these classifications implies that these classifications deal with patient care, the evidence in the record does not support such a supposition.

The RD’s Supplemental Decision ignores substantial evidence in the record; and, departs from and misapplies Board precedent. We address each classification separately.

1. Administrative Assistant NICU (Employee 101).

a. The Regional Director ignored substantial factual evidence in the record.

The Regional Director's summary of the evidence related to this classification is scant. But he seems to rely heavily upon the lone fact that this employee works in the NICU. RD Suppl. Dec. at p. 9. By lumping this classification together with the others, the Regional Director ignores the evidence in the record, and mistakenly concludes that it properly belongs in the voting unit.

The evidence presented at the hearing established that the employee in this classification does not work in a patient care unit. Rather she works on the third floor of a building known as the Women's Center. Although the building houses patient care units, the employee has her own office, which she does not share with any other employee. Tr. 222:1-4; 223:15-16.

Moreover, her job duties consist of traditional BOC clerical duties, such as scheduling the Director's appointments; maintaining the Director's daily calendar; answering phone calls for the Director; maintaining personnel files and receiving subpoenas for personnel records; and maintaining the "monthly budget and ensur[ing] timely payment of department expenses." Er. Exh. 9. The employee also handles the payments of bills from outside vendors. Tr. 227:10-11.

The Regional Director also ignores the fact that the employees' job duties do not require her to have any interaction with patients or patient care associates. The only testimony about her interacting with patients was explained through a hypothetical scenario whereby by the Employer's witness testified that the employee "could" interact with a patient's family, if she took "a concern from a family of a patient." Tr. 230:2-4. The Employer's witness, however, could not provide any specific example of this employee actually dealing with a patient's family member. Tr. 231:7-16.

None of these facts are discussed – much less mentioned – in the RD's Supplemental Decision. As such, the Regional Director ignored substantial factual evidence in the record.

b. The Regional Director departed from and misapplied Board precedent.

The Regional Director relies upon *St. Elizabeth's Hosp.*, 220 NLRB 325 (1975) to conclude that the Administrative Assistant, NICU classification should be included in the service/non-professional unit because the employee in this classification works in a department related to patient care. The Regional Director's reliance on *St. Elizabeth* is misplaced for two reasons.

First, the evidence in the record does not support the factual finding that the employee in this classification actually works *in* a patient care unit. *See* Tr. 222:1-4; 223:15-16. Indeed, the employee in this classification works in an office of her own, has *no* patient interaction, and only a hypothetical possibility of interacting with a patient's family, if she took "a concern from a family of a patient." Tr. 230:2-4.

Second, the Regional Director cites *St. Elizabeth's* for the proposition that the Board considers clericals who work in patient care units to be "hospital clericals" and not business office clericals. RD Suppl. Dec. at p. 9. That's the extent of the Regional Director's analysis. But *St. Elizabeth's* relied upon *Newington Children's Hosp.*, 217 NLRB 793, 795 (1975), which the Regional Director failed to discuss.

The Board in *Newington* explained that while it considers the geographic location of clericals, it also must determine whether the clericals "work and working conditions are materially related to unit work." *Newington Children's Hosp.*, 217 NLRB at 795. The Board provided an example of what it meant by "materially related to unit work":

For example, the clerk II in the operation room is in the nursing department, relays and receives messages from the operating room, and is supervised by the operating room supervisor. The ward clerks are also in the nursing department, are supervised by the head nurse, answer the patients' intercom, and give and receive telephone messages. In the housekeeping department, the secretary I acts as a secretary to the executive housekeeper, coming in constant contact with other housekeeping employees who have questions throughout the day.

Id.

Here, the Administrative Assistant, NICU has no patient contact, does not interact with other unit employees, has her own office, serves as her Director's personal secretary, and handles the payments of bills from outside vendors. Tr. 227:10-11. Accordingly, the Regional Director should have excluded this classification from the voting unit, because her work is not "materially related to unit work."

2. Coordinator, ICU (Employee 127).

a. The Regional Director ignored substantial factual evidence in the record.

The evidence presented at the hearing established that while the Coordinator, ICU shares an office with a doctor within the ICU department, for all intents and purposes, she has her own office. *See* Tr. 259:15-18; 260:5-9. No patients are seen in the office. Tr. 260:7-8.

The employee does not have any patient contact, nor does her job require her to interact with patients. Tr. 159:23-24. And her only interaction with other employees of the hospital is limited to her role in taking the minutes of meetings involving nurses, physicians, pharmacists, respiratory therapists, and social workers; taking the minutes of staff meetings; and processing payroll. Tr. 159:11-22

The job description of Coordinator, ICU requires the employee to be able to "[p]erform a variety of secretarial duties" that include "creating, typing and distributing necessary documents." Er. Exh. 44. She also assists with payroll and performs data entry. Tr. 159:18-20.

The Regional Director failed to consider any of this evidence, and simply determined that because she worked in the ICU, she should be included in the voting unit. As a result, the Regional Director failed to consider the substantial factual evidence in the record.

b. The Regional Director departed from and misapplied Board precedent.

For the same reasons as discussed above, in A(1)(b), the Regional Director ignored and misapplies Board precedent. Here, the Coordinator, ICU's work is not "materially related to unit work": she has no patient contact, has very limited interaction with other unit employees,

basically has her own office, serves as her Director's personal secretary, and handles the payroll and performs data entry. *See* Tr. Tr. 159:11-24.

Accordingly, she should be excluded from the unit based on the test in *Newington Children's Hosp*, 217 NLRB 793 (1975).

3. Intermediate Billing Representatives (Employees 141 and 142).

a. The Regional Director ignored substantial factual evidence in the record.

The Regional Director's discussion of the Intermediate Billing Representative classification is limited to noting that employees in this classification work in the Pharmacy; and on that basis, alone, the Regional Director concludes that they should be included in the service/non-professional unit.

The mere fact that employees in this classification work in a cubicle in the basement of the hospital where the Pharmacy is located is not dispositive as to their unit placement. The Regional Director should have considered the job duties performed by the Intermediate Billing Representative. According to the job description, this classification is responsible for performing billing tasks. Er. Exh. 69. Their duties include ensuring that charges are correctly captured in the employer's data system, and taking phone calls. Tr. 172:18-173:18.

Employees in this classification primarily perform data entry, and do not have any contact with patients or the public. *See* Tr. 276:3-23. Rarely, but on occasion, employees may have to deliver pills and medicine to the floors, if the Pharmacy Messenger – a position that is not in the unit – is unavailable. Tr. 278:24-25; 279:1-7.

The Regional Director ignored the substantial evidence showing that employees in the Intermediate Billing Representative classification have no patient contact; do not interact with other unit employees, except, on the rare occasion, when they cover for another non-unit employee; and that the nature of their work is unrelated to the Pharmacy work.

b. The Regional Director departed from and misapplied Board precedent.

The Regional Director cites *Med. Arts of Houston*, 221 NLRB 1017, 1018 (1975) for the proposition that the Board “traditionally considers pharmacy department clericals to be hospital clericals.” The Regional Director’s cursory treatment of *Med. Arts* leads him to again ignore and misapply the Board’s full test for hospital clericals – that is, that “[t]heir work and working conditions are materially related to unit work.”

Here, the work and working conditions of the Intermediate Billing Representative are not like those of employees in the voting unit. Nor are they similar to the pharmacy technician, pharmacy clerk, pharmacy delivery clerk, or customer service classifications that the Board, in *Med. Arts*, included in the non-professional unit. *Med. Arts*, 221 NLRB at 1018. Unlike the classifications in the voting unit or those in *Med. Arts*, the Intermediate Billing Representative has no patient contact, does not interact with other unit employees, and does not perform other work that is similar to unit employees.

4. Office Coordinator LDRP (Employee 151).

a. The Regional Director ignored substantial factual evidence in the record.

Like the other job classifications that he lumped together as “Patient-Care Department Clericals,” the Regional Director concluded that the Office Coordinator LDRP should be included in the voting unit, based on nothing more than the employee’s geographic work location in the hospital.

The Regional Director appears to have completely ignored the evidence regarding the work and working conditions of the Office Coordinator LDRP. The job description for the Office Coordinator LDRP describes the major functions of the job to include, but not limited to, “[c]ompleting authorizations and billing issues.” Er. Exh. 76. As described by Director Gibbs, “the primary function . . . has to do with scheduling physicians that want to get their patient in for a C-section. And then . . . mak[ing] sure that we had the information on the patient we need,

the prenatal records, you know the lab work, whatever is required.” Tr. 816:-14. The employee in this classification enters the charges incurred by the patient and transfers that information to the billing office. Tr. 817:3-14.

While the employee works on the second floor of the Women’s Center in the staff hallway, she shares an office with the Operating Room supervisor and Transport coordinator, neither of whom are eligible employees. Tr. 794:3-6; 815:2-4. Although she sometimes relieves patient care support techs, the evidence with respect to how often this occurs is lacking.

In determining that this classification should be included in the voting unit, the Regional Director failed to consider the substantial evidence in the record.

b. The Regional Director departed from and misapplied Board precedent.

As discussed above, in A(1)(b), the Regional Director misapplies Board precedent. Here, the Office Coordinator, LDRP position does not require patient contact. Moreover, the employee in this position does not have to interact with other voting unit employees, but does interact with billing office employees since she is responsible for entering charges incurred by patients and transferring that information to the billing office. Tr. 817:3-14.

Accordingly, the Regional Director failed to apply the “materially related to the unit work” test.

5. Application Specialist (Employee 181).

a. The Regional Director ignored substantial factual evidence in the record.

The Regional Director determined that the Application Specialist should be included in the voting unit. In making this determination, the Regional Director relies solely on the employees’ geographic work location. The Regional Director ignores the work and working conditions of the Application Specialist.

This classification supports and maintains the information system applications for the pharmacy. The job duties include “support[ing], the development, implementation, monitoring,

testing, and ongoing maintenance and upgrades of pharmacy related applications, clinical systems, and computerized pharmacy systems and hardware.” Er. Exh. 14. The employee is also responsible for repairing and replacing hardware in the computerized medication dispensing cabinet. Tr. 293:8-19; 294:1-8.

The employee in this classification does not interact with patients. Tr. 181:22-23. And his interactions with other employees consist of interacting with the Information Technology department, (Tr. 294:9-14), and training pharmacy staff on computer systems and “troubleshoot[ing] anything related to the medication dispensing cabinets or any other software in the pharmacy.” Tr. 181:16-18.

b. The Regional Director departed from, ignored, and misapplied Board precedent.

Here, the Regional Director again cites *Med. Arts of Houston*, 221 NLRB 1017, 1018 (1975) for the proposition that the Board “traditionally consider pharmacy department clericals to be hospital clericals.” As a result, the Regional Director fails to explain how the Application Specialist’s “work and working conditions are materially related to unit work.” *Id.* This classification has no interaction with patients or the public, but merely supports and maintains the information system applications for the pharmacy. Such positions are considered part of the BOC unit. *See Trumbull Mem’l Hosp.*, 218 NLRB 796, 797 (1975); *Rhode Island Hosp.*, 313 NLRB 343, 361 (1993).²

6. Application Specialist (Employee 182).

a. The Regional Director ignored substantial factual evidence in the record.

The Regional Director determined that the Application Specialist, Perioperative classification should be included in the voting unit. The Regional Director relies solely on the

² In addition, given that this employee repairs and replaces hardware in the computerized medication dispensing cabinet, this classification may be more appropriate in a skilled maintenance unit. *See Children’s Memorial Hosp.*, 13-RC-21611 (June 1, 2007).

employees' geographic work location, and ignores the work and working conditions of the Application Specialist, Perioperative.

The job description for Application Specialist, Perioperative list the major functions of the position as being required to “[r]esearch, plan, construct, install, configure, troubleshoot, maintain, and upgrade hardware and/or software interfaces, upgrade application reports, and databases for the Perioperative applications.” Er. Exh. 13. The job duties also include “[r]esolving hardware, software, and connectivity problems.” *Id.*

The employee does not interact with patients. Tr. 183:21-22. The employee does work in one of the suites on the second floor of the hospital, where the Surgery department is located, but there is no evidence that she works in the department. Tr. 294:20-24. The employee may have her own office not. Tr. 295:5-7. Her interactions are limited to training LVNs, PCAs, and nursing aides in the Surgery department on how to use various computer systems. Tr. 183:12-14.

b. The Regional Director departed from, ignored, and misapplied Board precedent.

As discussed above, in A(1)(b), the Regional Director misapplies Board precedent. This classification has no interaction with patients or the public, but merely supports and maintains the information system applications for the pharmacy. Such positions are considered part of the BOC unit. *See Trumbull Mem'l Hosp.*, 218 NLRB 796, 797 (1975); *Rhode Island Hosp.*, 313 NLRB 343, 361 (1993).³

B. “HOSPITAL GREETERS” (EMPLOYEES 152-157).

Like the “Patient-Care Department Clerks,” for some unknown reason, the Regional Director took the liberty to describe Hospitality Desk and Parking Ambassadors as “Hospital Greeters.” While it is true that the employees in this classification may greet visitors in and

³ In addition, given that this employee repairs and replaces hardware in the computerized medication dispensing cabinet, this classification may be more appropriate in a skilled maintenance unit. *See Children's Memorial Hosp.*, 13-RC-21611 (June 1, 2007).

outside the hospital, that is only a part of their job duties. Moreover, Regional Director's decision does not square with his analysis and conclusion that the Security Assistant should be excluded from the unit. *See* RD's Suppl. Dec. at p. 7. Finally, review should be granted because the Regional Director misapplied *Lincoln Park Nursing Home*, 318 NLRB 1160, 1165 (1995) for the proposition that the "Hospital Greeters" should be included in the service/non-professional unit.

1. The Regional Director ignored substantial factual evidence in the record.

The Hearing Officer found that the Hospitality Desk and Park Desk classification "is not a classification that should be included in the nonprofessional and technical unit." HO's Rep. at p. 65. Based on the evidence in the record, which the Regional Director ignored, this classification should be excluded from the petitioned for unit because it is more appropriately a BOC classification; or, alternatively, it should be excluded from the unit because employees in this classification are guards as defined by Section 9(b)(3) of the Act.

In his decision, the Regional Director notes that employees in the classification of Hospitality Desk and Park Ambassadors are "not directly involved in providing healthcare services to patients, [but] a *significant* portion of their job involves greeting patients and their guests" RD Suppl. Dec. at p. 9 (emphasis added). The Regional Director's emphasis on the greeting of patients and guests is not supported by the record, and ignores significant evidence in the record that demonstrates that this classification involves much more than greeting.

A major function of their job is to guard entrances to the hospital parking lots and interiors. As their job description notes, their duties include "[p]rotect[ing] all hospital buildings, assets and premises as assigned." Er. Exh. 67. Employees in this classification report to the Head of Security, like the Security Assistant who the Regional Director found belonged in the BOC. Their managers are located in a department that is located in a separate building away from the hospital where an employee credit union and physician billing office is located. Tr. 525:21-25; 526:1.

Contrary to the Regional Director's claim that a "significant portion" of the job duties are dedicated to greeting patients and guests, the record indicates that employees in this classification have little contact with patients and guests. *See* Tr. 453:2-6. For the most part, the only interaction that these employees have with other employees is in casual passing or if they need something cleaned up. Tr. 450:21-23; 450:23-25; 451:1.

Finally, there is no analysis in the RD's Supplemental Decision as to whether these employees should be considered guards as defined by the Act. Given that these employees are charged with "[p]rotect[ing] all hospital buildings, assets and premises as assigned," (Er. Exh. 67), and report to the Head of Security, the Regional Director should have analyzed this issue.

For these reasons, the Union requests that the Board grant review, because the Regional Director failed to consider this substantial evidence in his discussion of whether these employees should be excluded or included in the unit.

2. The Regional Director misapplied Board precedent.

The only decision that the Regional Director cites in support of his conclusion is *Lincoln Park Nursing Home*, 318 NLRB 1160, 1165 (1995). *Lincoln Park* is not applicable to the facts of this case, and it provides no support for the Regional Director's position that Hospitality Desk and Parking Ambassadors should be included in the unit.

First, *Lincoln Park* involves a nursing home; and, for that reason, does not involve an acute-care hospital or the Healthcare Amendments. For this reason, alone, it offers no support. In fact, this is the very reason that the Regional Director rejected the Employer's argument that *Lincoln Park* somehow supported the inclusion of PBX Operators and Receptionists into the service/non-professional unit. RD's Suppl. Dec. at p. 5. As the Regional Director stated, in rejecting the Employer's argument, "I note that the *Lincoln Park* case does not involve an acute-care hospital, and somewhat different considerations apply." *Id.* The Regional Director does not explain why *Lincoln Park* should apply to this classification only.

Lincoln Park involves a dispute about receptionists, who, among other things, were stationed at the front desk of a nursing home, "greet[ed] visitors when they enter[ed] the

[nursing home] . . . and request[ed] that they sign a register.” *Lincoln Park*, 318 NLRB at 1164. The receptionist classification in *Lincoln Park*, however, is significantly different than the Hospitality Desk and Parking Ambassador classification. While the Hospitality Desk and Parking Ambassadors may work in the interiors of the hospital, they also work in the exterior of the hospital (in the parking lots), their offices are located in a building that is off-site, housing an employee credit union, billing offices and security, and they have little interaction with patients or other employees. *See* Tr. 525:21-25; 526:1; 453:2-6; 450:21-25; 451:1.

As such, the Union requests that the Board grant its request for review, and sustain the challenges to the Hospitality Desk and Parking Ambassadors.

C. COORDINATOR, VOLUNTEERS (EMPLOYEE 34)

Although acknowledging that the “Board sometimes includes volunteer department clericals in a BOC unit” the Regional Director nevertheless concluded that the Coordinator, Volunteer should be included in the service/nonprofessional unit. RD Suppl. Dec. at pp. 9-10. The Regional Director’s conclusion, however, ignores substantial factual evidence in the record, and ignores and misapplies Board precedent.

1. The Regional Director ignored substantial factual evidence in the record.

The RD’s Supplemental Decision simply ignores and omits substantial factual evidence in the record, while focusing on the employee’s infrequent interaction with other employees in the unit, and her indirect contact with patients.

The purpose of the Coordinator, Volunteers is to recruit and supervise student volunteers, mainly high school and college students. Er. Exh. 52; Tr. 673:2-15. In order to recruit students, the employee spends her time outside of the hospital, travelling to high schools and colleges in an effort to recruit students for volunteer opportunities. Tr. 674:5-17. When she is at the hospital, the employee in this classification shares an office behind the gift shop, on the first floor of the hospital, with the Volunteer Services Director and two assistants. No other hospital workers enter this area, and it is not a patient care area. Tr. 657:5-659:15, 671:15-679:9. The

Regional Director omitted these significant facts from his decision.

Contrary to the RD's Supplemental decision, there is no evidence in the record that the employee in this classification is involved in any patient care. *See* Tr. 677:18-20 (noting that the employee has no direct contact with patients). The little indirect contact that she has with patients is limited to those times where she escorts a volunteer to a patient floor, and a patient may be present. Tr. 677:12-17. The only conduct that she has with other employees is if they were to talk to her about a volunteer, or to engage in a casual conversation. Tr. 677:21-25; 678:3-7.

The Regional Director seems to suggest that because the work of volunteers is related to patient care, then, by extension, the work of the Coordinator, Volunteer is related to patient care. This line of reasoning should be rejected for two reasons: First, there is no evidence in the record specifying the type of work that volunteers actually perform; the only evidence in the record is that volunteers may work around patients or on patient floors. Second, merely because the Coordinator, Volunteer may secure volunteers to volunteer with patients does not mean that her work involves patient care, especially given that she works outside of the hospital, that her office at the hospital is not located in patient care areas, and that she only indirectly interacts with patients or other unit employees. In other words, if the Regional Director's reasoning was sound, then that would mean that a Billing Clerk would be involved in patient care, because the Billing Clerk talks with patients when attempting to collect payment.

2. The Regional Director ignored and misapplied Board precedent.

In his decision, the Regional Director acknowledged that the Board has included volunteer department clericals in a BOC unit. RD's Suppl. Dec. at p. 9 (citing *Seton Med. Ctr.*, 221 NLRB 120, 122 (1975)). The Regional Director, however, also noted that sometimes the Board does not include volunteer department clericals into the unit. RD's Suppl. Dec. at p. 9 (citing *Buffalo Gen. Hosp.*, 218 NLRB 1090, 1092 (1975)). Relying on *Buffalo Gen.*, the Regional Director concluded that the Coordinator, Volunteer should be included in the unit.

The Regional Director's reliance upon *Buffalo Gen.*, rather than *Seton Med. Ctr.*, is a misapplication of Board precedent. In *Buffalo Gen.*, a RM case that was issued prior to the *Seton*

Med. Ctr. case, the parties did not litigate the issue of whether volunteer clericals should be included in the BOC unit. Rather, the parties stipulated that the volunteer classification should be included in a unit of non-professional employees. *Buffalo Gen. Hosp.*, 218 NLRB at 1092.

By contrast, in *Seton Med. Ctr.*, the parties actually litigated the issue of whether “all employees in the volunteer department, including department secretaries and other clerical employees in the department,” should be included in a BOC unit. *Seton Med. Ctr.*, 221 NLRB at 120. The employer argued that the only appropriate unit included a unit encompassing all clerical employees. *Id.* Among the employees that the employer sought to include were all employees in the volunteer department. *Id.* While the Board does not specifically discuss the volunteer employees, it does conclude that they are all “properly included in a unit of business office clerical employees.” *Id.* at 122.

Given the issues litigated – or lack of issues litigated – in both *Buffalo Gen. Hosp.* and *Seton Med. Ctr.*, along with the date that each decision issued, there is no rational reason why the Regional Director should have relied upon *Buffalo Gen. Hosp.* rather than *Seton Med. Ctr.*; and in doing so, the Regional Director ignored the one decision that actually wrestled with the issue presented in this matter.

As such, the Regional Director has ignored and misapplied Board precedent, and the Petitioner therefore requests that the Board grant review.

D. SPECIALIST HIM DATA INTEGRITY (EMPLOYEES 61-63).

1. The Regional Director’s Supplemental decision contains a substantial drafting error.

In his decision, in agreement with the Hearing Officer, the Regional Director concluded that a group of employees, whom he classified as “Medical Records Clericals,” should *not* be included in the bargaining unit. RD Suppl. Dec. at pp. 5-6. Three of the employees that he included in this group work in the classification of Specialist HIM Data Integrity. *Id.* Summarizing the Employer’s argument, the Regional Director specifically addressed the Specialist classification:

The Employer also argues that the Specialists should be reclassified as hospital clericals because they interact with unit employees, including nursing staff. While the record contains evidence that they do interact with unit employees, the record does not establish how much, and the interaction must be frequent to justify their reclassification as hospital clericals.

Id. at p. 6.

However, later in the decision, the Regional Director addressed just the Specialist classification and concluded that they should be included in the unit, because the employees in this classification are “not involved either with patient billing or insurance, traditional BOC functions.” *Id.* at p. 10.

The Regional Director’s conclusion that the Specialist, HIM Data Integrity classification should be included into the unit is clearly a mistake, given his analysis as to why they should be included along with the Medical Records Technicians; and because the Regional Director’s claim that employees in this classification “ensure the integrity of patient health records” and do not deal with “patient billing or insurance” is not accurate. *See* Tr. 910:12-25; 911:1-25; 912:1-4.

Accordingly, Petitioner requests the Board to correct the error, and sustain the Union’s challenges to this classification.

2. The Regional Director ignored substantial factual evidence and Board precedent.

To the extent that the Regional Director meant to include the Specialist, HIM Data Integrity classification in the unit, then his decision ignores substantial factual evidence in the record, along with Board precedent. The purported rationale given for including this classification is because employees in the classification “ensure the integrity of patient health records” and do not deal with “patient billing or insurance.” RD Suppl. Dec. at p. 10. This rationale ignores substantial evidence in the record.

Employees in this classification work closely with supervisors in the Central Billing Office, also known as the 3SPA, which is located at an off-site location. Tr. 910:12-25; 911:1-25; 912:1-4. While employees in this classification do not deal directly with insurance

companies with respect to a particular claim, they communicate directly with business office personnel. Indeed, a “major function” of their job requires them to “review insurance payments and denials and recommends billing corrections.” *Id.*

Furthermore, as Director Smith explained, if an insurance company is refusing to pay a claim, then the business office would communicate with employees in this classification and they would investigate why the insurance company denied the claim and report their findings directly to personnel at Central Business Office. *See* Tr. 911:3-12. In addition, employees in this classification would also “recommend to the business office [that] there is a problem with the name change, [that] it needs to be billed under the right patient.” Tr. 911:24-25; 912:1.

Lastly, as the Regional Director concluded in the earlier part of his decision, there is little evidence in the record to suggest that these employees “frequently” interact with other unit employees. RD Suppl. Dec. at p. 6. The employees in this classification are not involved in patient care, and they work in the basement of the hospital, and they primarily deal with the Central Business Office. Tr. 909:4-6; Tr. 910:12-25; 911:1-25; 912:1-4.

Because the Regional Director ignored substantial evidence in the record and Board precedent, Petitioner requests that the Board grant its request to review with respect to the Specialist, HIM Data Integrity classification.

E. THE EMPLOYER’S ARGUMENTS TO INCLUDE ADDITIONAL CLASSIFICATIONS IN THE UNIT SHOULD BE REJECTED

1. The IT Clericals are properly excluded from the service unit.

The employer’s request to include the “Information Technology Clericals” in the service unit should be denied because these employees are properly placed in a Business of Office Clerical (“BOC”) unit. Information Technology employees are generally placed in a BOC unit in the acute care setting. *Silver Cross Hospital*, 350 NLRB 114, 115 fn.7 (2007).

The Executive Secretary to the Information Systems Department performs BOC work away from the main hospital and does not interact with bargaining unit employees. Tr. 538:1-540:20, 600-606:23.

The System Analysts for Nursing Services (employees 166-167) troubleshoot and maintain computer systems and maintain databases for the Nursing Services Department. Tr. 178:12- 180:6.

The EPM-Emris System Specialist manages the hospital information and security systems. The employee works with vendors to implement information systems for offsite clinics. She works away from the main hospital, where no other eligible voters are housed. Tr. 543- 545:25, 607:1-612:19.

The System Analysts I, II, and III construct and install application systems as part of the hospital information systems group. They work across the parking lot from the hospital, where no other bargaining unit members work. Employees at the main hospital are not supposed to contact them directly. They have no patient interaction. Tr. 549-555:5, 613:6- 616:19.

The Application Specialist, Materials Management is responsible for maintaining the information system which houses Materials Management data, and for keeping data and database integrity. The employee works offsite, two miles from the hospital. Tr. 451-452, 528:1-25.

The Software Engineers (employees 183-186) are similar to systems analysts described above, but they also perform computer coding. They design software programs and install applications. They are required to hold a bachelor's degree or have four to six years in the field of software engineering. The work away from the main hospital building with the other "IT" employees. Tr. 555-558:15, 616:20- 623:25.

The Healthcare Intelligence Architect develops the hospital data system, by writing reports that are duplicable. He works away from the main hospital in the Chaney/Seinfeld building with the IT group. He does not interact with bargaining unit members. Tr. 558:20-563, 622:7- 625:15.

The Clinical Support Liasons provide support for users of the hospital's information system. They do not interact with any bargaining unit members. They are housed on the fourth floor of the main hospital, where they are each provided a cubicle in an office they share as a

group. No other classifications share the office with them. They do not provide any type of patient care, and do not wear scrubs or any uniform. Tr. 563- 567:8, 626:18-627.

System Engineers I, II, and III are responsible for the hospital servers, connectivity and backup systems. They design the server system and data center. They work in the basement of main hospital in an office with cubicles that they share with one another and with the Desktop Technicians. They typically perform all their work by virtual desktop. The position requires three years' experience in Network Operating System Administration. These employees have responsibility for systems in offsite clinics as well as the hospital, and systems that reach across the country. Tr. 567:12-570:5, 628:2-631:25.

The Helpdesk Technicians help customers with software and hardware questions, and answer phones. They work in the basement of the main hospital where they work at cubicles. Their office is not shared with any other classifications. They do not engage in any patient care related duties. Tr. 570-572:9, 632:4- 633:15.

The Network Engineers III maintain and engineer the hospital's technology infrastructure and data center. They ensure the data network is secure and running. They are housed in the basement of the main hospital, in the same office with Desktop Techs and System Engineers. Tr. 576-577:18, 640:2- 642:11.

The Senior Security Administrator configures data security monitoring tools. He works with the IT group away from the main hospital at the Chaney/Seinfeld building. Tr. 582:24- 584:24, 647:19-648:13.

As discussed above, information technology workers, including "help desk" workers are considered BOC. *Silver Cross Hospital*, 350 NLRB 114, 115 fn.7 (2007); *Rhode Island Hospital*, 313 NLRB 343, 361 (1993) (helpdesk); *Trumbull Mem'l Hosp.*, 218 NLRB 796, 797 (1975) (computer operator and programmers). Thus the Regional Director properly excluded this group from the service unit in his March 17, 2017 Supplemental Decision.

2. The Telecommunication Tech is properly excluded from the service unit.

The Regional Director properly found that the Telecommunications Tech (employee 217) is not a part of the service unit, as he is appropriately placed in a BOC with unit with the other PBX workers who also deal with the phone systems. Tr. 584:25-587:1; 648:14-647. Even if not included in a BOC unit, since this employee is primarily responsible for the repair and maintenance of phone systems and equipment, he is properly included in a skilled maintenance unit, rather than a service unit. See *Presbyterian Univ. Hosp.* 313 NLRB 1341 (1994) (employees that maintain the telephone system are skilled maintenance); *Toledo Hosp.* 312 NLRB 652, 653 (1993) (same); *St. Margaret Memorial Hosp.*, 303 NLRB 923, 924 (1991) (electronic technicians are skilled maintenance).

3. The Education Coordinator, Worker's Compensation Specialist, and Nursing Staff Coordinator are properly excluded from the service unit.

The Education Coordinator, Worker's Compensation Specialist, and Nursing Staff Coordinators perform primarily personnel and Human Resource related functions. Tr. 135:19-138:8; 374-377; 401-403; 160:5-163:7; 261-263. Nursing Staff Coordinators perform data entry to help track the time off and working hours of employees, and work closely with the Human Resources Department. The Education Coordinator is responsible to ensure the hospital staff is up to date on its mandatory education. Her supervisor does not oversee any service unit employees. The Worker's Compensation Specialists review and authorize Worker's Compensation injury billings within the Human Resources Department. The Worker's Compensation Specialist's interaction with eligible voters is no different from their interaction with any employee of the hospital, since it is wholly incidental to their billing and HR role. As such all three of these classifications are properly placed in a BOC unit rather than a service unit, in the acute care setting. *St. Luke's Episcopal Hospital*, 222 NLRB 674, 676 (1976); *Trumbull Mem'l Hosp.*, 218 NLRB 796 (1975); *St. Francis Hospital*, 219 NLRB 963, 964 (1975).

4. The Charge Revenue Representatives are properly excluded from the service unit.

Charge Revenue Representatives perform classic BOC finance and billing related functions, by posting timely charges to the hospital's financial system and reconciling revenue reports. They do not work in the hospital but in an office building across the street. They maintain daily contact with the Business Office and have little contact with service providers, and any such contact does not pertain to any patient care related duties of those employees. Tr. 174:18-176:18, 282:20-283:13. Accordingly, the Regional Director appropriately excluded this classification from the service unit.

5. The Coding System Coordinator is properly excluded from the service unit.

The Coding System Coordinator performs billing related functions for the laboratory, a classic BOC function. This employees' interaction with bargaining unit members is limited to payroll related inquiries, which is entirely incidental to her BOC function. Tr. 176:19- 178:2. Accordingly, she is properly placed in a BOC unit with the other coding and billing employees, rather than the service unit.

V. CONCLUSION

For the foregoing reasons, in reviewing the Regional Director's Supplemental Decision, the Union requests that the Board reverse the Decision with respect to the challenged voters discussed above.

Dated: December 29, 2017

WEINBERG, ROGER & ROSENFELD
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**PROOF OF SERVICE
(CCP §1013)**

I am a citizen of the United States and resident of the State of California. I am employed in the County of Alameda, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years and not a party to the within action.

On December 29, 2017, I served the following documents in the manner described below:

**PETITIONER'S BRIEF ON REVIEW OF THE REGIONAL DIRECTOR'S
SUPPLEMENTAL DECISION AND DIRECTION TO SUSTAIN CERTAIN
CHALLENGED BALLOTS AND TO COUNT THE REMAINING CHALLENGED
BALLOTS**

- ☒ (BY ELECTRONIC SERVICE) By electronically mailing a true and correct copy through Weinberg, Roger & Rosenfeld's electronic mail system from jwatkinson@unioncounsel.net to the email addresses set forth below.

On the following part(ies) in this action:

Mr. William Cowen
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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on December 29, 2017, at Alameda, California.

/s/ Jennifer Watkinson
Jennifer Watkinson